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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,724	02/11/2002	John James Scanlon		5648

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John J. Scanlon
1308 Hillside Blvd.
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EXAMINER

PHAM, MINH CHAU THI

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,724

Applicant(s)

SCANLON

Examiner

PHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Drawings

1. The drawings are objected to because items "43, 45 & 76" specified in the specification are not on the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

2. Claims 1-18 provisionally rejected under the judicially created doctrine of double patenting over claims 1-10, 12-16, 18 and 21-23 of copending Application No. 09/847,808. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: A vacuum cleaner bag comprising a cavity formed of an impermeable media for storing dirt, an inlet for conveying dirt into the cavity, and an air permeable particle separator sealed over an exit hole in the impermeable media for retaining dirt in the cavity as clean air exits the bag through the separator.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending

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application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 8-11, 13, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136; page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58; col. 4, lines 37-45).

Any one of Witte, Patterson et al, Ford or Heiman et al teach a vacuum cleaner bag comprising a dry flexible bag shaped cavity formed of an impermeable media for storing dirt, an inlet for conveying dirt into the cavity, a dry air permeable particle separator sealed over an exit hole in the impermeable media for retaining dirt in the cavity as clean air exits the bag through the separator. Any one of Witte, Patterson et al, Ford or Heiman et al further teach a method of collecting dirt in a vacuum cleaner wherein an inlet of a bag comprising impermeable media and an air permeable particle separator is installed in a vacuum cleaner in an essentially leak-proof manner, dirt is conveyed into bag cavity, air permeable particle separator separates dirt from air, cleaned air exits bag through air permeable particle separator and dirt is retained in the bag cavity,

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bag is removed from vacuum cleaner, bag is opened and dirt is removed, and bag is reclosed and reinstalled in vacuum cleaner for reuse.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136; page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58; col. 4, lines 37-45), as applied supra to paragraph 4, in view of Kaczor (6,007,594; 28 in Figs. 1 & 3; 58 in Fig. 4; 34 & 40 in Fig. 5; col. 2, line 37 through col. 3, line 7).

Claims 3 and 4 call for a reusable bag with interlocking parts. Kaczor discloses a reusable vacuum cleaner bag wherein the bag has an open end consisting of interlocking parts for opening the bag to remove dirt and for closing the bag (see 28 in Figs. 1 & 3; 58 in Fig. 4; 34 & 40 in Fig. 5). Kaczor further discloses a method of emptying its contents and reusing the bag. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the dirt cavity of any one of Witte, Patterson et al, Ford or Heiman et al to have an

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open end with interlocking parts for opening/closing the vacuum bag as taught by Kaczor wherein the vacuum bag may be recycled and reused a number of times and it would be less expensive than a plurality of single use vacuum bags.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136; page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58; col. 4, lines 37-45), as applied supra to paragraph 4, in view of George et al (5,507,847; 20 in Fig. 3; col. 4, lines 21-35) .

Claim 7 calls for the air permeable particle separator comprising at least one layer of expanded polytetrafluoroethylene (PTFE) membrane. George et al disclose an air permeable particle separator which comprises at least one layer of PTPE membrane. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the separator of any one of Witte, Patterson et al, Ford or Heiman et al with at least one layer of PTPE membrane as taught by George et al since PTPE membrane is well known in the art and is highly use in a wide variety of possibly harsh application without sacrificing filter integrity and the hydrophobic characteristics of the membrane allowing the surface to be exposed to relatively large amounts of water of humidity without absorbing the moisture and without risking clogging or breaking down of the filter media.

8. Claims 14, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136;

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page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58; col. 4, lines 37-45), as applied supra to paragraph 4, in view of Zhang (6,156,086; col. 1, lines 35-67).

Claims 14, 15 and 18 call for the separator comprising a prefilter, at least one layer of fibers, or paper or nonwoven including antimicrobial material or odor removing means or scenting means. Zhang discloses separator comprising a prefilter, at least one layer of fibers, or paper or nonwoven including activated charcoal for removing antimicrobial material or odor removing means or including electrostatically charged material. Zhang discloses a filter media with scenting means or deodorizing means. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the separator of any one of Witte, Patterson et al, Ford or Heiman et al to have at least one layer of fibers, or paper or nonwoven including electrostatically charged material, antimicrobial material or odor removing means or scenting means as taught by Zhang since it is well known in the art that these means are effective in removing not only dust of minute particles but also harmful substances generated in the room such as gas or odor from adhesives used in wallpapers or furniture, gas or odor form chemical materials of construction materials, carbon monoxide and carbon dioxide from cooking, and exhaust gas of vehicles sucked from the outdoor, etc.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136; page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58;

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col. 4, lines 37-45), as applied supra to paragraph 4, in view of Lovett et al (6,277,165 B1; col. 2, lines 4-21 and lines 41-57).

Claim 12 calls for the vacuum bag media being transparent for observing contents of the bag. Lovett et al disclose a vacuum bag media wherein the media has a transparent portion for observing contents of the bag. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the bag of any one of Witte, Patterson et al, Ford or Heiman et al and Kaczor to be transparent as taught by Lovett et al to allow a user to see through the vacuum bag to detect whether the bag is full of dirt and is ready for a change-out.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Witte (1,802,228; page 1, lines 67-71; page 2, lines 18-20), Patterson et al (1,504,136; page 1, lines 24-38), Ford (1,403,112; page 1, lines 49-55) or Heiman et al (3,961,921; Fig. 2; col. 3, lines 56-58; col. 4, lines 37-45), as applied supra to paragraph 4, in view of Dyson (6,010,561; 12 & 14 in Figs. 1 & 2; col. 2, lines 4-18 and lines 30-39; col. 3, lines 7-28).

Claim 6 calls for the separator including a frame and a pleated media. Dyson discloses a vacuum cleaner wherein the filter is pleated. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the filter of any one of Witte, Patterson et al, Ford or Heiman et al to be pleated since it is well known in the art that the pleated filter would increase surface filtration area and would help prolong filter life.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Marshall (1,924,249) discloses a dust bag.
- Marshall (1,881,086) discloses a vacuum cleaner bag.
- Andersen (1,828,584) discloses an attachment for vacuum cleaners.
- Jaquith (1,561,928) discloses a dust bag for vacuum cleaners.
- Scanlon (2001/0047721 A1) discloses a vacuum collection bag.
- Scanlon (2002/0166449 A1) discloses a vacuum collection bag.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 308-1605. The examiner can normally be reached on Monday-Friday (except Wednesday) from 7:15 a.m. to 5:45 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached on (703) 308-3792. The fax phone number for this Group is (703) 872-9310 (non-finals) or (703) 872-9311 (after-finals).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Minh-Chau Pham

Patent Examiner

May 13, 2003